

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

KAY STEPHENS, an individual, and
all other similarly situated,

Plaintiff,

v.

UNITED SERVICES
AUTOMOBILE ASSOCIATION, a
Texas reciprocal insurance exchange,
and CCC INFORMATION
SERVICES, INC., a Delaware
corporation,

Defendants.

NO. 2:20-CV-0097-TOR

ORDER DENYING PLAINTIFF'S
SECOND MOTION FOR
RECONSIDERATION

BEFORE THE COURT is Plaintiff's Second Motion for Reconsideration (ECF No. 50). This matter was submitted for consideration without oral argument. The Court has reviewed the record and files herein, and is fully informed. For the reasons discussed below, Plaintiff's Second Motion for Reconsideration (ECF No. 50) is **DENIED**.

ORDER DENYING PLAINTIFF'S SECOND MOTION FOR
RECONSIDERATION ~ 1

BACKGROUND

This case concerns Plaintiff's allegations, on behalf of herself and a proposed class of Washington personal vehicle policyholders, that USAA systemically undervalues its customers' total vehicle loss claims by relying on CCC valuation reports, which Plaintiff alleges unlawfully apply an un-itemized negative vehicle condition adjustment when calculating vehicle value. ECF No. 1-2 at 2-3, ¶¶ 1.1-1.5. The factual background is summarized in the Court's prior Order at ECF No. 40.

On April 7 and 8, 2020, Defendants USAA and CCC each filed motions to stay this case and compel Plaintiff to submit to an appraisal of her vehicle. ECF Nos. 24, 26. On June 2, 2020, the Court heard argument on these motions. ECF No. 39. On June 4, 2020, the Court partially granted Defendant USAA's motion, denied Defendant CCC's motion as moot, and ordered Plaintiff to submit to an appraisal during the normal course of discovery. ECF No. 40. On June 19, 2020, Plaintiff filed her first motion for reconsideration. ECF No. 42. The Court denied this motion. ECF No. 43.

On July 10, 2020, with permission of the Court, Plaintiff filed her first amended complaint. ECF No. 49. Plaintiff amended her complaint to narrow the causes of action to a violation of the Washington Consumer Protection Act ("CPA"), civil conspiracy, and declaratory and injunctive relief. ECF No. 49 at

1 17-21. The factual allegations remain substantively the same as those alleged in
2 the original complaint. *Compare* ECF No. 1-2 with ECF No. 49. On July 21,
3 2020, Plaintiff filed the instant second motion for reconsideration, relying on the
4 changes made to the causes of action in the amended complaint. *See* ECF No. 50.

5 **DISCUSSION**

6 **A. Reconsideration Standard**

7 The Court need not revisit the legal standard governing motions for
8 reconsideration, which was discussed in the Order denying Plaintiff's first motion
9 for reconsideration. *See* ECF No. 43.

10 **B. Arguments on Second Reconsideration**

11 Plaintiff seeks second reconsideration on the grounds that the first amended
12 complaint renders the appraisal moot. ECF No. 50 at 2. Plaintiff argues that her
13 complaint "now focus exclusively on defendant USAA's calculated deductions."
14 ECF No. 50 at 4. In doing so, Plaintiff argues that "[o]nly the illegal deductions
15 from the ACV, which was used to formulate Defendants' settlement offer, is at
16 issue now." ECF No. 50 at 5.

17 Defendants counter Plaintiff's argument on the grounds that appraisal
18 remains necessary where Plaintiff's same factual allegations demonstrate an injury
19 necessary to a CPA claim and standing. ECF No. 61 at 5-10; ECF No. 65 at 6-13.

1 The parties disagree about the underlying nature of this dispute. Defendants
2 characterize it as a valuation dispute regarding the actual cash value of Plaintiff's
3 vehicle. ECF No. 61 at 5; ECF No. 65 at 5. Plaintiff frames it as a dispute over
4 the legality of a condition adjustment deduction that affects vehicle valuation.
5 ECF No. 67 at 3. Viewed either way, Plaintiff's alleged damage concerns the
6 undervaluation of her vehicle.

7 *1. CPA Damages*

8 Defendants allege that Plaintiff's remaining CPA claim triggers appraisal.
9 ECF No. 61 at 5-9. A CPA claim requires "(1) an unfair or deceptive practice, (2)
10 in trade or commerce, (3) that affects the public interest, (4) which causes injury to
11 the party in his or her business or property, and (5) which injury is causally linked
12 to the unfair or deceptive act." *Hangman Ridge Training Stables, Inc. v. Safeco*
13 *Title Ins. Co.*, 105 Wash. 2d 778, 784-85 (1986). Damage is integral to proving a
14 CPA violation.

15 While this Court previously recognized that Plaintiff asserted regulatory
16 violations outside of the four corners of the insurance contract (ECF No. 40 at 6),
17 Plaintiff's vehicle value remains at issue. In her amended complaint, Plaintiff
18 continues to allege that the undervaluation "resulted in an underpayment of \$793."
19 ECF No. 49 at 13, ¶ 4.37. Plaintiff's argument is unclear and unpersuasive when
20 she claims illegal actual cash value deductions do not affect the valuation of her

1 vehicle. ECF No. 50 at 5. Thus, where the valuation process continues to be
2 challenged, an order compelling appraisal does not result in a clear error or
3 manifest injustice.

4 *2. Standing*

5 Defendants also argue appraisal is necessary to evaluate Plaintiff's standing.
6 ECF No. 61 at 9. Plaintiff only requests that if this Court finds that there is no
7 standing, that the case be remanded back to state court. ECF No. 67 at 5-6. Under
8 Article III of the Constitution, standing requires that a plaintiff have an injury-in-
9 fact that is both "concrete and particularized." *Spokeo, Inc. v. Robins*, 136 S. Ct.
10 1540, 1545 (2016). As the Court finds that Plaintiff has pled a concrete and
11 particularized injury in the undervaluation of her vehicle, standing is not
12 dispositive for the purposes of this present motion.

13 **ACCORDINGLY, IT IS HEREBY ORDERED:**

14 Plaintiff's Second Motion for Reconsideration (ECF No. 50) is **DENIED**.

15 The District Court Executive is directed to enter this Order and furnish
16 copies to counsel.

17 **DATED** September 8, 2020.



Thomas O. Rice
THOMAS O. RICE
United States District Judge